

**EMPLOYMENT APPEALS BOARD DECISION**  
**2018-EAB-0108**

*Affirmed*  
*Disqualification*

**PROCEDURAL HISTORY:** On December 8, 2017, the Oregon Employment Department (the Department) served notice of an administrative decision concluding claimant voluntarily left work without good cause (decision # 101602). Claimant filed a timely request for hearing. On January 9, 2018, ALJ Scott conducted a hearing, and on January 12, 2018, issued Hearing Decision 18-UI-100840, affirming the Department's decision. On January 26, 2018, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) Baker Packing Co. employed claimant as a seasonal on-the-line jigger, last from August 8, 2016 to December 29, 2016. Claimant had worked for the employer in that position since approximately 2005.

(2) During the period immediately prior to December 16, 2016, claimant had missed work an average of one day per week for which he had received three written warnings from the employer for poor attendance. On December 19, 2016, claimant missed work without notifying the employer he would be absent and on December 20, 2016 missed work after calling in sick.

(3) On December 21, 2016, when claimant reported for work, he requested "all available sick leave" from his manager, without providing documentation regarding an illness, because he "just wanted a bonus basically" since it was Christmas time. Audio Record ~ 9:00 to 12:00. At that point the manager suspended him until December 28, 2016 for his failure to report for work or notify the employer he would be absent on December 19, 2016.

(4) On December 28, 2016, claimant did not report for work or notify the employer he would be absent.

(5) On December 29, 2016, when claimant reported for work, he notified his manager that he was quitting. Claimant quit because he believed he had been denied sick leave he was entitled to under Oregon law and had "moral objections to things going on there." Audio Record ~ 6:00 to 9:00.

**CONCLUSIONS AND REASONS:** We agree with the ALJ. Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless he (or she) proves, by a preponderance of the evidence, that he had good cause for leaving work when he did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). “Good cause” is defined, in relevant part, as a reason of such gravity that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would have no reasonable alternative but to leave work. OAR 471-030-0038(4) (August 3, 2011). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for the employer for an additional period of time.

As a preliminary matter, the parties disagreed regarding some of the facts at issue. Claimant testified from memory about events that took place more than a year before the hearing and admitted during the hearing that the employer’s evidence regarding dates and some other facts were probably correct because he had no documentation. Audio Record ~ 31:00 to 34:00. Because the employer’s evidence had more probative value for that reason, where the evidence conflicted, we found facts in accordance with the employer’s evidence.

Claimant asserted that he quit work because he believed he had been denied sick leave he was entitled to under Oregon law and had “moral objections to things going on there” at the employer’s operation. However, although claimant asserted that he was “kind of sick” with Crohn’s disease, he admitted that he provided no documentation of his illness to the employer and had not seen a physician for the condition since he lived in California many years previous. Claimant also admitted that he had requested “all available sick leave” on December 21 because he “just wanted a bonus basically” since it was Christmas time. Viewing the record as a whole, claimant failed to show that his circumstances were so grave that that no reasonable and prudent person in those circumstances would have continued to work for the employer for an additional period of time.

Claimant voluntarily left work without good cause and is disqualified from receiving unemployment insurance benefits until he requalifies for benefits by earning four times his weekly benefit amount from work in subject employment.

**DECISION:** Hearing Decision 18-UI-100840 is affirmed.

J. S. Cromwell and S. Alba;  
D. P. Hettle, not participating.

**DATE of Service:** February 23, 2018

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. See ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the

'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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